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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

STK01028PUS (2001-028-NSC)

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on February 28, 2006

Signature

Typed or printed name

Jeffrey M. Szuma

Application Number

10/033,503

Filed

12-27-2001

First Named Inventor

Ravi K. Kavuri

Art Unit

2171

Examiner

Fernandes, C.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 35,700☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

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February 28, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

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*Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Group Art Unit: 2171

Ravi K. Kavuri et al.

Examiner: Fernandes, C.

Serial No.: 10/033,503

Filed: December 27, 2001

For: Virtual Volume Management System And Method

Attorney Docket No.: STK 01028 PUS (2001-028-NSC)

**ARGUMENT IN SUPPORT OF
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF
Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, the Applicants respectfully request review of the final rejection in the above-identified application for the reasons set forth below.

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Mail Stop AF, Commissioner for Patents, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on:

February 28, 2005
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Jeffrey M. Szuma
Name of Person Signing

Jeffrey M. Szuma
Signature

Remarks

In the Office Action mailed November 28, 2005, the Examiner finally rejected claims 21-40 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,745,207 (“the ‘207 patent”). The Applicants respectfully request review of that final rejection on the grounds that the ‘207 patent fails to anticipate claims 21-40 of the present application.

The Applicants’ claimed invention is directed to automatic allocation of a storage device to a pool. More specifically, as an example, a user wishing to add a storage device in a storage area network need not identify which servers will use the device and then install the appropriate software driver on all such servers. Instead, the claimed invention automatically assigns the device to a pool, accounting for and handling any differences between storage devices so that such differences are not apparent to a user. As a result, a user need not be involved. (*See, e.g.*, Specification; p. 7, l. 3 - p. 9, l. 13.)

The ‘207 patent is directed to a system and method for managing virtual storage. Those sections of the ‘207 patent cited by the Examiner disclose the creation of a virtual disk by allocating capacity in a storage pool to the new virtual disk. That is, existing capacity in a storage pool is reserved for the newly created virtual disk. The storage pool from which existing capacity will be set aside for the new virtual disk may be selected manually or automatically. (*See, e.g.*, The ‘207 Patent; col. 12, ll. 18-38; col. 5, ll. 1-8.)

Thus, the ‘207 patent discloses reserving existing capacity in a storage pool for a newly created virtual disk. The ‘207 patent therefore fails to teach or suggest automatically allocating a storage device to a pool, as recited in various forms in independent claims 21, 26, 31 and 36. As a result, for at least the foregoing reasons, the Applicants believe that independent claims 21, 26, 31 and 36 are not anticipated by the ‘207 patent.

Claims 22-25, 27-30, 32-35 and 37-40 depend either directly or indirectly from independent claims 21, 26, 31 and 36, respectively, and include all the limitations thereof. As a result, and for at least the reasons set forth above concerning independent claims 21, 26, 31 and 36, the Applicants believe that claims 22-25, 27-30, 32-35 and 37-40 also are not anticipated by the '207 patent.

Accordingly, reconsideration of the Examiner's final rejection of claims 21-40 under §102(e) is respectfully requested.

Respectfully submitted,

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Date: February 28, 2006

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